

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORKCOMMODITY FUTURES TRADING
COMMISSION,*Plaintiff,*

v.

GEMINI TRUST COMPANY, LLC,

Defendant.

Case No. 22 Civ. 4563 (AKH)

Stipulation and ~~Proposed~~ Order

WHEREAS, on September 6, 2023, Plaintiff Commodity Futures Trading Commission ("CFTC") moved for a protective order, ECF No. 49 (the "Motion for Protective Order"), barring a deposition of a CFTC representative designated under Federal Rule of Civil Procedure 30(b)(6) or, in the alternative, striking certain of the deposition topics set forth in the Notice of Rule 30(b)(6) Deposition issued by Defendant Gemini Trust Company, LLC ("Gemini").

WHEREAS, counsel for the CFTC and Gemini conferred regarding a reasonable briefing schedule for the Motion for Protective Order, and the parties consented to filing a Stipulation Regarding Briefing Schedule for Motion Seeking Protective Order, ECF No. 51, setting forth the proposed briefing schedule, which required that Gemini file its opposition to the CFTC's Motion for Protective Order by October 3, 2023, and the CFTC shall file its reply in further support of its Motion for Protective Order by October 13, 2023.

WHEREAS, on September 12, 2023, the Court So Ordered the parties' Stipulation Regarding Briefing Schedule for Motion Seeking Protective Order, ECF No. 52.

WHEREAS, counsel for the parties also conferred on a comparable briefing schedule for Gemini's anticipated motion to compel.

WHEREAS, on September 12, 2023, Gemini filed a motion to compel, ECF No. 53 (the "Motion to Compel"), seeking an order (i) compelling witnesses Gregory Kuserk and

Christopher Goodman to answer questions that counsel for the CFTC instructed them not to answer on the basis of the deliberative process privilege; and (ii) compelling any and all future CFTC witnesses to answer questions of the same nature that are posed during their depositions; or, in the alternative (iii) precluding the CFTC from offering evidence as to any matter on which it has asserted the deliberative process privilege as a bar to discovery.

WHEREAS, pursuant to Rule 6.1(a) of the Local Civil Rules of the U.S. District Court for the Southern District of New York, the presumptive deadline for the CFTC to file any opposition to the Motion to Compel is September 19, 2023, and Gemini's reply to the CFTC's opposition would be due by September 21, 2023.

WHEREAS, the Motion to Compel concerns numerous issues, which the CFTC needs time to assess and prepare responses to, and which Gemini will require adequate time to reply to.

WHEREAS, counsel for the CFTC and Gemini have conferred regarding a reasonable briefing schedule and agree that it would be more efficient and less burdensome to align the briefing schedules for the Motion for Protective Order and Motion to Compel and for the motions to be argued together.

NOW, THEREFORE, the parties hereby stipulate and agree to the following schedule for briefing the Motion for Protective Order and Motion to Compel, and respectfully request that the Court enter an order approving the same:

1. Gemini will file its opposition to the CFTC's Motion for Protective Order, and the CFTC shall file its opposition to Gemini's Motion to Compel by October 17, 2023.
2. The CFTC shall file its reply in further support of its Motion for Protective Order and Gemini shall file its reply in further support of its Motion to Compel by November 1, 2023.

Dated: September 19, 2023

Respectfully submitted,

/s/ Andrew J. Rodgers

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SO ORDERED.

Dated: 9.21, 2023


HON. ALVIN K. HELLERSTEIN
United States District Judge